

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2021/2022

UPI 3712 – Public International Law

(All sections/Groups)

26 NOVEMBER 2021

Reading Time: 9:15 a.m. – 9:30 a.m.

(15 Minutes)

Answering Time: 9.30 a.m. – 12.30 p.m.

(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of **5 pages** with **5 Questions** only.
3. Attempt **TWO** Questions from **Part A**. Answer **ALL** Questions from **Part B**. The distribution of the marks for each question is given.
4. Students are not allowed to bring in any statute and calculator into the Examination.
5. Please write all your answers in the Answer Booklet provided.

PART A
(Attempt **TWO Questions** from this Part)

QUESTION 1

Article 2(3) of the UN Charter states that, “*All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.*”

Generally, it is accepted for judicial settlement that there must be consensus of the parties in an international dispute, for a judicial settlement.

Under what circumstance can a party to a dispute make a unilateral application and evoke the compulsory acceptance of the International Court of Justice (ICJ) jurisdiction?

Support your answer with international law and decided cases.

(Total : 25 Marks)

QUESTION 2

Critically examine the meaning of indiscriminate attacks in relation to Article 51 (5) (b) of Additional Protocol I to the Geneva Conventions.

Provide at least one example from relevant state practice to illustrate your answer.

(Total : 25 Marks)

QUESTION 3

Recently, a Panama’s ship lost oil in the South China Sea within the 12 Nautical Miles off Malaysian waters. In future, Malaysia wants to prohibit ships carrying potentially polluting substances such as oil from passing through its territorial sea. Explain whether, according to UNCLOS, Malaysia is allowed to implement such measures.’

(Total : 25 Marks)

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PART B

(Answer **ALL Questions** from this Part)

QUESTION 4

The state of Tarana in central Africa was in constant confrontation with her neighbouring state of Bologana. The dispute was over a territory which is situated in the state of Tarana and claimed by Bologana.

Tarana accuses Bologana of supporting a rebel group in the disputed territory by supplying weapons to them. This was affirmed by many independent reports that claimed that the rebels were supplied with weapons and logistics by the state of Bologana.

In a major escalation, the rebels destroyed a power station deep in the state of Tarana's territory. This development shocked the government and the people of Tarana. Following a series of cabinet meetings, the Tarana armed forces, in a "counter-attack" shelled the rebel-held area.

A few days later, Tarana's air force entered into Bologana's airspace and bombed an apartment block, claiming that the latter was housing sophisticated weaponry for the sole purpose of arming the rebels. The bombing caused a major destruction of the apartment block and a number of civilians were killed.

In a second wave of attack, Tarana's armed force bombed and destroyed an air force base near its border, arguing that it was necessary to prevent Bologana from any possible retaliatory action. This resulted in the complete annihilation of an airbase situated in the proximity of Tarana's territory.

The conflict was brought before the International Court of Justice. The issue revolved around the legality of the use of force in relation to the specific attacks against Bologana's interests by Tarana's forces and Bologana's alleged support of the rebels.

The state of Tarana argued that the attack was in response to the destruction of their power station by the rebels who were supported by the state of Bologana. The intrusion into Bologana's territory and the follow up action were necessary to prevent further attacks on their territory. It was only responding to a perceived threat and the attacks were only in the interest of security in the region. As a justification, it claimed it was acting in 'self-defence.'

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The state of Bologana dismissed the justification of self-defence put forth by Tarana and cited several violations of the bi-lateral international treaties and complained over the excessive use of force and violation of its territory.

With reference to the legal regulation of the use of force, and decided cases, apply the rules and principles of international law arising from this conflict.

(Total: 25 Marks)

QUESTION 5

Since their independent, Republic of Indoman and State of Pokman were involved in several provocations and military clashes including two wars. After several decades of border clashes and inconformity of the both the countries, Indoman and Pokman decided to enter into a bilateral agreement named, “The Treaty on the Prohibition of Nuclear Weapons”.

Some provisions of the Agreement read as follows:

Preamble:

The States Parties to this Treaty,

Determined to contribute to the realization of the purposes and principles of the Charter of the United Nations,

Deeply concerned about the catastrophic humanitarian consequences that would result from any use of nuclear weapons, and recognizing the consequent need to completely eliminate such weapons, which remains the only way to guarantee that nuclear weapons are never used again under any circumstances,

Mindful of the risks posed by the continued existence of nuclear weapons, including from any nuclear-weapon detonation by accident, miscalculation or design, and emphasizing that these risks concern the security of all humanity, and that all States share the responsibility to prevent any use of nuclear weapons,

Cognizant that the catastrophic consequences of nuclear weapons cannot be adequately addressed, transcend national borders, pose grave implications for human survival, the environment, socioeconomic development, the global economy, food security and the health of current and future generations, and have a disproportionate impact on women and girls, including as a result of ionizing radiation,

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Acknowledging the ethical imperatives for nuclear disarmament and the urgency of achieving and maintaining a nuclear-weapon-free world, which is a global public good of the highest order, serving both national and collective security interests,

Reaffirming that the full and effective implementation of the Treaty on the Non-Proliferation of Nuclear Weapons, which serves as the cornerstone of the nuclear disarmament and non-proliferation regime, has a vital role to play in promoting international peace and security,

Article 1 Prohibitions

1. Each State Party undertakes never under any circumstances to:

- (a) Develop, test, produce, manufacture, otherwise acquire, possess or stockpile nuclear weapons or other nuclear explosive devices;
- (b) Transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly or indirectly;
- (c) Receive the transfer of or control over nuclear weapons or other nuclear explosive devices directly or indirectly;
- (d) Use or threaten to use nuclear weapons or other nuclear explosive devices;
- (e) Assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Treaty;
- (f) Seek or receive any assistance, in any way, from anyone to engage in any activity prohibited to a State Party under this Treaty;
- (g) Allow any stationing, installation or deployment of any nuclear weapons or other nuclear explosive devices in its territory or at any place under its jurisdiction or control

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After signing the agreement, however, Indoman and Pokman engaged in heated argument with each other. The President of Indoman declares that their army is invincible and they are finally going to teach their opponents a good lesson once and for all. Outnumbered and frightened by these strong declarations, the chief commander of the troops of Pokman is considering to drop a nuclear bomb on the approaching enemy troops and other high value military targets.

As his main legal adviser, you have to answer these two questions:

- 1- After signing the treaty, whether the Pokman's attack would be justified as self defence? (10 Marks)
- 2- Considering the fact that both Indoman and Pokman are parties to the four 1949 Geneva Conventions. Advise the repercussions of the intended attack under the international law? (15 Marks)

(Total : 25 Marks)

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